

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT

20855

Application 30073 of Ernest J. Hunt, William E. Clarke, Jr., and Lorraine Cowan
c/o William E. Clarke, Jr., 3759 Cano Court, Napa, CA 94558

filed on March 5, 1992, has been approved by the State Water Resources Control Board
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Unnamed Stream

North Slough thence

Napa River thence

San Pablo Bay

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
North 193,700 feet and East 1,930,100 feet By California Coordinate System, Zone 2	NW¼ of NW¼	18	4N	3W	MD

County of Napa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Fire Protection						
Recreation						
Stockwatering	<u>OFFSTREAM RESERVOIR</u> NW¼ of NW¼	18	4N	3W	MD	
Irrigation	NW¼ of NW¼	18	4N	3W	MD	30
	SW¼ of NW¼	18	4N	3W	MD	18
	SE¼ of NE¼	13	4N	4W	MD	12
					TOTAL	60

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 49 acre-feet per annum to be collected from November 1 of each year to April 30 of the succeeding year. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

The maximum rate of diversion to offstream storage shall not exceed 2.9 cubic feet per second. (000005J)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 2001. (0000008)

8. Complete application of the water to the authorized use shall be made by December 31, 2005. (0000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

11. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

13. Permittee shall install and maintain devices satisfactory to the State Water Resources Control Board to measure the rate and quantity of water diverted into the reservoir from Unnamed Stream tributary to North Slough, and water released from or flowing out of the reservoir. (0060046)

14. In accordance with Section 1601 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fish and wildlife resources have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)

15. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, permittee shall file a report pursuant to Water Code Section 13260 and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, Region II, or by the State Water Resources Control Board. (0000100)

16. For protection of riparian habitat, Permittee shall establish a setback of 45 feet along the Unnamed Stream from which water shall be diverted. The stream setback shall be measured from the top of the bank on both sides of the stream. No activity shall occur within the setback area, including, but not limited to, grading, roads, fencing, storage areas, livestock grazing or watering, and vineyard, with the exception of maintenance of the existing concrete-block stream crossing for

access to land north of the stream. The Permittee has prepared a re-vegetation plan for the stream setback area and for the area around the pit reservoir (letter dated November 7, 1995, from William E. Clarke, Jr., to Joan M. Jurancich, Environmental Specialist, Division of Water Rights). This re-vegetation plan shall be implemented after completion of construction of the reservoir and diversion structure and the removal of livestock from the Place of Use. The Permittee shall submit a brief annual report, including photographs, of the status of the re-vegetation efforts, including any maintenance activities, as an attachment to the Annual Report of Permittee. This requirement is binding upon the Permittee and any successor-in-interest. (0400500)

17. To prevent adverse impacts on downstream fish and wildlife habitat due to stream sedimentation, no work shall be started on site grading or construction of diversion facilities and no water shall be diverted under this permit until Permittee has submitted to the Chief, Division of Water Rights, an erosion control plan for the project which is part of a grading permit issued by the County of Napa. Thereafter, the approved erosion control plan shall be implemented by Permittee during construction and operation of the project. (0400500)
(0490500)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: **JULY 3 1996**

STATE WATER RESOURCES CONTROL BOARD

David R. Beringer
for Chief, Division of Water Rights